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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)

Advanced Television Systems)
and Their Impact upon the)
Existing Television Broadcast)
Service)

MM Docket No. 87-268

To: The Commission

REPLY OF COSMOS BROADCASTING

Cosmos Broadcasting Corporation ("Cosmos"), licensee of television station KAIT(TV), NTSC Channel 8, Jonesboro, Arkansas, by its attorneys, and pursuant to 47 C.F.R. § 1.429(g), hereby replies to the Opposition filed July 18, 1997, by Mid-South Public Communications Foundation ("Mid-South") in response to the Petition for Reconsideration of the *Sixth Report and Order* in MM Docket No. 87-268, FCC 97-115 (released April 21, 1997) ("*Sixth R&O*") submitted by Cosmos ("Petition").^{1/}

In its petition, Cosmos requested that the Commission change KAIT(TV)'s DTV assignment from Channel 58 to Channel 9. The reassignment would result in adjacent channel operation with its NTSC Channel 8 and thus allow Cosmos to share equipment, take advantage of reduced DTV roll-out costs and expedite the transition to digital television. Optimal use of lower channels represents a more efficient use of spectrum because these channels, which may be operated less expensively than channels higher in the band, would

^{1/} Cosmos was served with Mid-South's Opposition by mail. Accordingly, pursuant to Sections 1.429(g) and 1.4(h) of the Commission's rules, this reply is timely.

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not remain fallow. Moreover, Channel 58 is located outside of the so-called "core" spectrum; allowing relocation now would facilitate the Commission's spectrum recovery and would prevent Cosmos from having to engage in a potentially-costly second relocation at the end of the transition period. Although Cosmos recognizes that the proposed reassignment raises the possibility of creating interference, preliminary analysis leads Cosmos to believe that it could resolve concerns of interference through technical means (such as employing directionality techniques or adjusting power or height) or engineering agreements with affected broadcasters, if necessary.^{2/}

Cosmos wishes to reemphasize its support for the Commission's efforts to bring the full implementation of digital television to the public as quickly as possible. Accordingly, Cosmos believes, as do others,^{3/} that the Commission should reconsider DTV allotments in discrete situations where meritorious solutions are proposed that would facilitate the transition to DTV.

Mid-South, licensee of non-commercial station WKNO(TV), NTSC Channel 10, in Memphis, Tennessee, opposes Cosmos's proposal to be reassigned DTV Channel 9 because operation could result in "significant objectionable [adjacent-channel] interference."^{4/} In addition to its ownership of WKNO(TV), Mid-South also has recently applied for construction permits in Memphis for Channels *14 and *56 (though these remain ungranted),

^{2/} The Commission has suggested that it would encourage agreements among broadcasters to resolve spectrum issues. See, 47 C.F.R. §73.623(f) and *Sixth R&O* at ¶42.

^{3/} See, e.g., Petition for Clarification and Partial Reconsideration submitted by the Association for Maximum Service Television and the Broadcasters Caucus and other Broadcasters.

^{4/} Opposition at 2.

and, as such, Mid-South asserts that its "future plans are predicated on the availability" of Channel 10.^{5/}

To the extent that Mid-South opposes Cosmos's petition due to concerns of adjacent-channel interference, Cosmos believes that it can resolve those via technical means and is prepared to reach cooperative solutions (though it should be noted that the operation of Channel 9 in Jonesboro would satisfy the Commission's separation criteria of Section 73.623(d)).^{6/} However, to the extent that Mid-South opposes the proposed reassignment because it would disrupt Mid-South's "future plans," Cosmos urges the Commission to reject the Opposition as premature.

In its opposition, Mid-South states that the Commission has not paired DTV channels for the two construction permit applications for NTSC stations.^{7/} As a result, Mid-South contends, "full DTV conversion of Mid-South's television broadcast services" will require the use of Channel 10.^{8/} Cosmos understands that Mid-South may have the option to revert to its NTSC channel at the end of the transition. However, it is not clear to Cosmos what effect two ungranted construction permits — for channels that are not even at issue — should have on Cosmos's proposal.^{9/} If Mid-South's vague reference to its "future plans" reflects

^{5/} *Id.*

^{6/} *See*, Petition for Reconsideration, Technical Exhibit, submitted by Cosmos.

^{7/} Opposition at 1.

^{8/} *Id.* at 2.

^{9/} Indeed, Mid-South's application for Channel *56 (FCC File No. BPET-961213KH) was filed on December 13, 1996 — well after the Commission's September 20, 1996, cut-off date. Mid-South's attempt here to rely on a patently invalid application should be forcefully rejected.

some attempt to warehouse spectrum, such opposition should be rejected outright. The Commission clearly stated that the Telecommunications Act limited eligibility for DTV licenses to those who are licensed to operate NTSC stations or who hold construction permits.^{10/} At some time in the future, the Commission may very well decide to extend the eligibility to hold DTV licenses to parties with ungranted applications, but an opposition to Cosmos's proposal that presumes that such eligibility may eventually be granted is nothing more than speculative and should be rejected. To give credence to fanciful requests which are based upon rules that are not in existence would grind the DTV roll-out to a halt. The Commission must surely give priority to stations who are currently on the air and not add delay to the DTV roll-out by postponing the determination of meritorious proposals such as Cosmos's that improve the DTV Table of Allotments. Cosmos will gladly cooperate with fellow broadcasters who raise legitimate concerns and will work to seek agreements in those cases, but parties with ungranted applications for new stations should resolve their DTV issues when they become ripe.

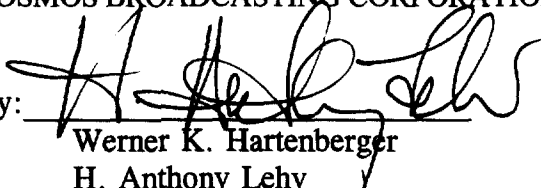
^{10/} *Fifth R&O* at ¶17, citing 47 U.S.C. § 336(a)(1).

For the foregoing reasons, and for the reasons set forth in the Petition, the Commission should reconsider the assignment of DTV Channel 58 and reassign DTV Channel 9 to KAIT(TV).

Respectfully submitted,

COSMOS BROADCASTING CORPORATION

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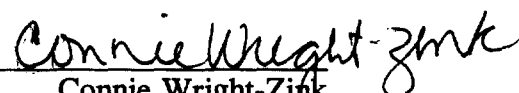
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Dated: July 31, 1997

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Reply of Cosmos Broadcasting Corporation was sent by first-class mail, postage prepaid, this 31st day of July, 1997, to each of the following:

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